

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 12-10-24

-against-

24-cr-0291 (LAK)

MATTHEW QUEEN,

Defendant.
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ORDER

LEWIS A. KAPLAN, *District Judge*.

Defendant's *ex parte* letter motion for an order requiring the United States Marshal to serve two subpoenas *duces tecum* for materials said to be relevant to sentencing, subpoenas that apparently were issued in blank by the Clerk and completed by defense counsel, is **DENIED**.

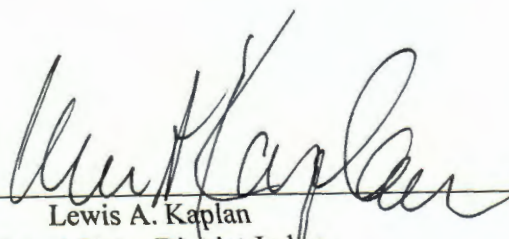
First, Fed. R. Crim. P. 17(d) provides in substance that a subpoena "may" be served by a marshal "or any nonparty who is at least 18 years old." There has been no showing the defendant cannot arrange for service without involving the marshal. In particular, there appears to be no basis for shifting any cost of service to the taxpayers. To be sure, Rule 17(b) requires a court to order that a subpoena "be issued for a named witness if the defendant shows an inability to pay the witness's fees and the necessity of the witness's presence for an adequate defense." And the Court assumes that service by the marshal should be ordered as well on such a showing. But no such showing has been made here. Moreover, the Court notes that defendant is represented by retained rather than court-appointed counsel and that no indigency finding has been sought or made.

Second, while there may be rare circumstances in which a subpoena (other than a subpoena returnable at trial) may be issued or service at public expense ordered on an *ex parte* application, there has been no showing of any reason why that should be done here.

This ruling is without prejudice to a renewed motion on notice to the government which, in addition to addressing the points above, demonstrates that the issuance of these subpoenas was appropriate.

SO ORDERED.

Dated: December 10, 2024



Lewis A. Kaplan
United States District Judge